

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1222 of 1995

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

MAHANT RAGHUNATH GIRI & ORS

Versus

RAJENDRA GIRI GURU

Appearance:

MR PERCY KAVINIA FOR MR PM THAKKAR for Petitioner
MR KG SHETH, AGP for respondent no.1

CORAM : MR.JUSTICE Y.B.BHATT
Date of decision: 18/10/1999

ORAL JUDGEMENT

1. This is a revision under section 115 of CPC at the instance of original defendant.

2. The suit was filed by the Charity Commissioner as the plaintiff with a view to appoint a Receiver in respect of the trust estate until the rival claims (to be appointed as sole trustee) by the defendant as also other rival claimants could be decided. In the said suit at Exh.161 a third party by the name of Rajendra Giri Guru Narayan Giri being the present opponent no.1 filed an application for being joined as a party defendant to the suit inasmuch as this third party had also filed a change report which was rejected in separate and independent

proceedings. Since the said third party (Rajendra Giri Guru Narayan Giri) was interested in the suit filed by the Charity Commissioner, the aforesaid application at Exh.161 was filed to enable him to participate in the suit filed by the Charity Commissioner.

3. The trial court while allowing the application has also come to a finding that the third party applicant is also a claimant in respect of the post of sole trustee on account of the Will left by the deceased, and therefore he has a right to participate in the present suit. The said application was granted by the trial court under the provisions of Order 1, Rule 10, sub-rule (2) of CPC, on the ground that the third party applicant is a necessary party to the suit. It is this order which has been challenged by way of the present revision by the original defendant.

4. In my view the impugned order passed by the trial court is amply justified in view of the decisions of this court in the case Rajnikant Nayak Vs. Denaben reported at 1986 GLR page 38 and also in the case of Fatesinh Gaekwad Vs. Savjibhai, reported at 16(1) GLR page 15.

5. I, therefore, find that there is no jurisdictional error within the meaning of section 115 of CPC, and this revision is, therefore, dismissed. Rule is discharged with no order as to costs.

28.10.1999 (Y.B. BHATT J.)